

Corrected Title

House Bill 3371

Sponsored by COMMITTEE ON REVENUE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides for regulation of production, processing and sale of marijuana and marijuana-infused products. Directs Oregon Health Authority to license marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers.

Provides for taxation of marijuana production. Directs Oregon Liquor Control Commission to oversee taxation of marijuana. Provides for distribution of moneys collected as tax.

Punishes violations of Act by \$1,000 fine. Punishes certain other offenses by \$650 fine.

Limits applicability of crimes in this state related to manufacturing, distributing or possessing marijuana to person under 21 years of age or, for delivery of marijuana, to person who delivers marijuana to person under 21 years of age.

Becomes operative on July 1, 2014.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Control, Regulation and Taxation of Cannabis Act; creating new provisions; amend-
3 ing ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910,
4 475.933 and 571.315; repealing ORS 475.059; appropriating money; declaring an emergency; and
5 providing for revenue raising that requires approval by a three-fifths majority.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. Short title. Sections 1 to 47 of this 2013 Act shall be known and may be cited**
8 **as the Control, Regulation and Taxation of Cannabis Act.**

9 **SECTION 2. Purposes and limitations. (1) The purposes of sections 1 to 47 of this 2013**
10 **Act are:**

11 (a) **To establish a comprehensive state policy concerning Cannabis, which includes**
12 **marijuana and industrial hemp under existing state law;**

13 (b) **To protect the safety, welfare, health and peace of the people of this state by better**
14 **prioritizing the state's limited law enforcement resources;**

15 (c) **To eliminate the problems caused by the prohibition and uncontrolled manufacture,**
16 **delivery and possession of marijuana within this state; and**

17 (d) **To ensure that the State Department of Agriculture issues industrial hemp licenses**
18 **and agricultural hemp seed production permits in accordance with existing state law.**

19 (2) **Sections 1 to 47 of this 2013 Act may not be construed:**

20 (a) **To amend or affect in any way the definition or interpretation of the term "controlled**
21 **substance":**

22 (A) **In any statute or rule that applies to the operation of a vehicle, boat or aircraft, in-**
23 **cluding the Oregon Vehicle Code and ORS chapters 830 and 837; or**

24 (B) **In any other statute or rule that does not expressly refer to the definition of "con-**
25 **trolled substance" in ORS 475.005;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) To prohibit an employer from prohibiting the manufacture, delivery, possession or use
2 of marijuana in the workplace;

3 (c) To prohibit an employer from adopting a policy that prohibits the use of marijuana
4 by employees or independent contractors during working hours or that provides for the
5 testing of the use of marijuana by employees or independent contractors;

6 (d) To prohibit an employer from refusing to hire or engage an employee or independent
7 contractor who uses or has used marijuana;

8 (e) To prohibit an employer from terminating an employee or independent contractor who
9 uses or has used marijuana during working hours;

10 (f) To prohibit an owner, lessor or lessee of real property, or any other person who has
11 an interest in real property, from prohibiting the manufacture, delivery, possession or use
12 of marijuana on the real property;

13 (g) To prohibit a recipient of a federal grant or an applicant for a federal grant from
14 prohibiting the manufacture, delivery, possession or use of marijuana to the extent neces-
15 sary to satisfy federal requirements for the grant;

16 (h) To prohibit a party to a federal contract or a person applying to be a party to a fed-
17 eral contract from prohibiting the manufacture, delivery, possession or use of marijuana to
18 the extent necessary to comply with the terms and conditions of the contract or to satisfy
19 federal requirements for the contract;

20 (i) To require a person to violate a federal law;

21 (j) To exempt a person from a federal law or obstruct the enforcement of a federal law;

22 (k) To amend or affect in any way the Oregon Indoor Clean Air Act; or

23 (L) To amend or affect in any way the Oregon Medical Marijuana Act.

24 (3) Consistent with subsections (1) and (2) of this section, it is the policy of this state to
25 encourage the development of all industries.

26 **SECTION 3. Definitions.** As used in sections 1 to 47 of this 2013 Act:

27 (1) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana
28 or marijuana-infused products other than for the purpose of resale in the regular course of
29 business.

30 (2) "Homegrown" means produced for noncommercial purposes.

31 (3) "Marijuana" has the meaning given that term in ORS 475.005.

32 (4)(a) "Marijuana-infused products" means products that contain marijuana or marijuana
33 extracts and that are intended for human consumption.

34 (b) "Marijuana-infused products" does not include marijuana.

35 (5) "Marijuana processor" means a person who processes marijuana or marijuana-infused
36 products in this state.

37 (6) "Marijuana producer" means a person who produces marijuana in this state.

38 (7) "Marijuana retailer" means a person who sells marijuana or marijuana-infused pro-
39 ducts to a consumer in this state.

40 (8) "Marijuana wholesaler" means a person who purchases marijuana or marijuana-
41 infused products in this state for resale to a person other than a consumer in this state.

42 (9) "Noncommercial" means not dependent or conditioned upon the provision or receipt
43 of financial consideration.

44 (10) "Premises" means:

45 (a) All enclosed areas at a location used for the production, processing or retail sale of

1 marijuana or marijuana-infused products; and

2 (b) All outside areas at a location that are used for the production, processing or retail
3 sale of marijuana or marijuana-infused products.

4 (11) "Process" includes the processing, packaging, repackaging, labeling or relabeling of
5 marijuana, marijuana-infused products or any container of marijuana or marijuana-infused
6 products.

7 (12) "Produce" includes the production, manufacture, planting, cultivation, growing or
8 harvesting of marijuana.

9 (13)(a) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis
10 family Moraceae, and any mixture or preparation thereof.

11 (b) "Usable marijuana" does not include the seeds, stalks and roots of the plant Cannabis
12 family Moraceae.

13 **SECTION 4. Exemptions.** Sections 1 to 47 of this 2013 Act do not apply:

14 (1) To the production, processing, keeping or storage of homegrown marijuana at a
15 premises if the total amount of marijuana at the premises does not exceed six mature
16 marijuana plants and 24 ounces of usable marijuana at a given time;

17 (2) To the production, processing, keeping or storage of homegrown marijuana-infused
18 products; or

19 (3) To the extent a person acts within the scope of and in compliance with the Oregon
20 Medical Marijuana Act.

21 **SECTION 5. Powers and duties of Oregon Health Authority.** (1) The Oregon Health Au-
22 thority shall:

23 (a) Regulate the production, possession, sale, purchase, transportation, importation and
24 delivery of marijuana in accordance with sections 1 to 47 of this 2013 Act.

25 (b) Grant, refuse, suspend or cancel licenses for the sale or production of marijuana or
26 marijuana-infused products and may permit, in the authority's discretion, the transfer of a
27 license between persons.

28 (c) Aid in the investigation and prosecution of violations of sections 1 to 47 of this 2013
29 Act.

30 (d) Adopt rules as are necessary to administer or carry out the authority's duties under
31 sections 1 to 47 of this 2013 Act.

32 (e) Exercise all powers incidental, convenient or necessary to administer or carry out the
33 authority's duties under sections 1 to 47 of this 2013 Act.

34 (f) Regulate the use of marijuana or marijuana-infused products for scientific, pharma-
35 ceutical, manufacturing, mechanical, industrial or other purposes.

36 (2) The authority may not purchase, own or sell marijuana or marijuana-infused pro-
37 ducts.

38 **SECTION 6. Powers and duties of Oregon Liquor Control Commission.** (1) The Oregon
39 Liquor Control Commission shall:

40 (a) Regulate the production, possession, sale, purchase, transportation, importation and
41 delivery of marijuana in accordance with sections 25 to 36 of this 2013 Act.

42 (b) Collect the taxes and duties imposed under sections 25 to 36 of this 2013 Act and issue
43 evidence of payment of taxes or duties.

44 (c) Aid in the investigation and prosecution of violations of sections 1 to 47 of this 2013
45 Act.

1 (d) Adopt rules as are necessary to administer or carry out the commission's duties un-
2 der sections 1 to 47 of this 2013 Act.

3 (e) Exercise all powers incidental, convenient or necessary to administer or carry out the
4 commission's duties under sections 1 to 47 of this 2013 Act.

5 (f) Regulate or prohibit advertising by marijuana producers, marijuana retailers or
6 marijuana wholesalers.

7 (2) The commission may not purchase, own or sell marijuana or marijuana-infused pro-
8 ducts.

9 SECTION 7. Powers and duties of State Department of Agriculture. The State Depart-
10 ment of Agriculture shall assist and cooperate with the Oregon Health Authority and the
11 Oregon Liquor Control Commission to the extent necessary for the authority and the com-
12 mission to carry out the duties of the authority and the commission under sections 1 to 47
13 of this 2013 Act.

14 SECTION 8. Purchase and use of marijuana by member or employee. No provision of
15 sections 1 to 47 of this 2013 Act prevents any member or employee of the Oregon Health
16 Authority, the Oregon Liquor Control Commission or the State Department of Agriculture
17 from purchasing and keeping in possession, for the personal use of the member or employee
18 or members of the family of the member or employee, any marijuana in the same manner
19 as it may be purchased or kept by any other person under sections 1 to 47 of this 2013 Act.

20 SECTION 9. Preemption of inconsistent charters and ordinances. Sections 1 to 47 of this
21 2013 Act are designed to operate uniformly throughout the state and preempt all municipal
22 charter enactments or local ordinances that are inconsistent with sections 1 to 47 of this
23 2013 Act.

24 SECTION 10. Authority of cities and counties over marijuana retailers. Cities and coun-
25 ties may adopt reasonable time, place and manner ordinances for the regulation of marijuana
26 retailers if the governing body of the city or county makes specific findings that adverse ef-
27 fects will otherwise occur.

28 SECTION 11. Licenses; federal law. The Oregon Health Authority may not refuse to issue
29 or renew, or suspend or revoke, a license issued under sections 12 to 24 of this 2013 Act on
30 the basis that producing, distributing and possessing marijuana is prohibited by federal law.

31 SECTION 12. Oregon Health Authority's licensing duties. (1) The Oregon Health Au-
32 thority shall issue and renew the licenses described in sections 14, 15, 16 and 17 of this 2013
33 Act in the manner provided in sections 12 to 24 of this 2013 Act.

34 (2) Refusal to issue or renew, or suspension or revocation of, a license as provided in
35 sections 12 to 24 of this 2013 Act is subject to the provisions of ORS chapter 183.

36 SECTION 13. Application for license; rules; fees. (1) A person may apply to the Oregon
37 Health Authority for the issuance or renewal of a license described in section 14, 15, 16 or
38 17 of this 2013 Act on a form and in a manner prescribed by the authority by rule. An ap-
39 plication submitted under this section must include the name and address of the applicant,
40 location of the premises that is to be operated under the license and any other information
41 the authority may require.

42 (2) The authority shall issue an applicant the license for which the applicant applied if:

43 (a) The applicant is in compliance with this section;

44 (b) The authority considers the applicant qualified under section 14, 15, 16 or 17 of this
45 2013 Act;

1 (c) For the issuance of a license, the authority considers the applicant to be in compli-
2 ance with section 20 of this 2013 Act; and

3 (d) For the renewal of a license, the authority considers the applicant to be in compliance
4 with section 21 of this 2013 Act.

5 (3) The authority shall assess a nonrefundable fee for processing an application to issue
6 a license under this section. The application processing fee shall be \$250 or an amount that
7 the authority adopts by rule.

8 (4) The annual license fee for a license issued by the authority under this section shall
9 be \$1,000 or an amount that the authority adopts by rule. The license fee is nonrefundable
10 and shall be paid by each applicant upon the issuance or renewal of a license. All moneys
11 collected under this subsection shall be deposited in the Oregon Health Authority Fund es-
12 tablished in ORS 413.101 and are continuously appropriated to the authority for purposes of
13 carrying out the duties of the authority under sections 1 to 47 of this 2013 Act.

14 SECTION 14. Production license; rules. (1) The Oregon Health Authority shall adopt rules
15 establishing the qualifications of a marijuana producer.

16 (2) A marijuana producer must have a production license issued by the authority for the
17 premises at which marijuana is produced.

18 SECTION 15. Processor license; rules. (1) The Oregon Health Authority shall adopt rules
19 establishing the qualifications of a marijuana processor.

20 (2) A marijuana processor must have a processor license issued by the authority for the
21 premises at which marijuana or marijuana-infused products are processed.

22 SECTION 16. Wholesale license; rules. (1) The Oregon Health Authority shall adopt rules
23 establishing the qualifications of a marijuana wholesaler.

24 (2) A marijuana wholesaler must have a wholesale license issued by the authority for the
25 premises at which marijuana or marijuana-infused products are received, kept, stored or
26 delivered.

27 SECTION 17. Retail license; rules. (1) The Oregon Health Authority shall adopt rules es-
28 tablishing the qualifications of a marijuana retailer.

29 (2) A marijuana retailer must have a retail license issued by the authority for the
30 premises at which marijuana or marijuana-infused products are sold.

31 SECTION 18. Characteristics of license. (1) A license issued under section 13 of this 2013
32 Act:

33 (a) Shall be a personal privilege.

34 (b) Shall be valid for one year as described in section 19 of this 2013 Act.

35 (c) Shall be renewable as described in section 13 of this 2013 Act.

36 (d) Shall be suspendible or revocable as described in section 21 of this 2013 Act.

37 (e) Shall be transferable from the premises for which the license was originally issued
38 to another premises, subject to sections 1 to 47 of this 2013 Act, rules adopted by the Oregon
39 Health Authority under sections 12 to 24 of this 2013 Act and any county or city ordinance.

40 (f) Shall cease upon the death, insolvency or bankruptcy of the licensee, except as pro-
41 vided in subsection (2) of this section.

42 (g) Does not constitute property.

43 (h) In not alienable.

44 (i) Is not subject to attachment or execution.

45 (j) Does not descend by the laws of testate or intestate devolution.

1 (2) The authority may, by order, provide for the manner and conditions under which:

2 (a) Marijuana or marijuana-infused products left by a deceased, insolvent or bankrupt
3 licensee, or subject to a security interest, may be disposed of.

4 (b) The business of a deceased, insolvent or bankrupt licensee may be operated for a
5 reasonable period following the death, insolvency or bankruptcy of the licensee.

6 (c) A license may be transferred from the premises for which the license was originally
7 issued to another premises.

8 **SECTION 19. License terms.** A license issued or renewed under section 13 of this 2013
9 Act shall be issued for a period of one year and expires at midnight on the date of issuance.

10 **SECTION 20. Grounds for refusing to issue license.** The Oregon Health Authority may
11 refuse to issue a license under section 13 of this 2013 Act if the authority has reasonable
12 ground to believe any of the following:

13 (1) That there are sufficient licensed premises in the location requested in the application
14 or that the granting of a license in the location is not demanded by public interest or con-
15 venience. In determining whether there are sufficient licensed premises in the location, the
16 authority shall consider seasonal fluctuations in the population of the location and ensure
17 that there are adequate licensed premises to serve the needs of the location during peak
18 seasons.

19 (2) That the premises named in the application does not have defined boundaries. The
20 authority may require that a premises be enclosed by a wall, fence or other structure as a
21 condition of issuing a license. The authority may not license premises that are mobile.

22 (3) That the applicant:

23 (a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled sub-
24 stances to excess.

25 (b) Has made false statements to the authority.

26 (c) Is incompetent or physically unable to meet the requirements of the business pro-
27 posed to be licensed.

28 (d) Has been convicted of violating any of the laws, general or local, of this state if the
29 conviction is substantially related to the fitness and ability of the applicant to perform the
30 duties of a licensee.

31 (e) Is mentally incompetent.

32 (f) Is not of good repute and moral character.

33 (g) Does not have a good record of compliance with sections 1 to 47 of this 2013 Act or
34 rules adopted under sections 1 to 47 of this 2013 Act.

35 (h) Is not the legitimate owner of the business proposed to be licensed or has not dis-
36 closed other persons who have an ownership interest in the business.

37 (i) Has not demonstrated financial responsibility sufficient to adequately meet the re-
38 quirements of the business proposed to be licensed.

39 **SECTION 21. Grounds for revocation or suspension of license.** The Oregon Health Au-
40 thority may revoke or suspend a license issued under section 13 of this 2013 Act if the au-
41 thority finds or has reasonable ground to believe any of the following to be true:

42 (1) That the licensee:

43 (a) Has violated a provision of sections 1 to 47 of this 2013 Act or a rule adopted under
44 sections 1 to 47 of this 2013 Act.

45 (b) Has made a false representation or statement to the authority or the Oregon Liquor

1 Control Commission in order to induce or prevent action by the authority or the commission.

2 (c) Is mentally incompetent.

3 (d) Is insolvent or physically unable to carry on the management of the business that is
4 licensed.

5 (e) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled sub-
6 stances to excess.

7 (f) Has made a false representation or statement to a consumer or the public concerning
8 marijuana or marijuana-infused products sold by the licensee.

9 (g) Since the issuance of the license, has been convicted of a crime related to marijuana
10 use or a county or city ordinance related to marijuana use.

11 (2) That there is any other reason that, in the opinion of the authority, based on public
12 convenience or necessity, warrants revoking or suspending the license.

13 SECTION 22. No "tied house" prohibitions. A person may hold one or more production
14 licenses, one or more processor licenses and one or more retail licenses.

15 SECTION 23. Delivery of marijuana. A marijuana producer, marijuana processor or
16 marijuana wholesaler may deliver marijuana and marijuana-infused products only to a li-
17 censed premises. A marijuana retailer is restricted to selling marijuana and marijuana-
18 infused products on the premises described in the license, but may deliver marijuana and
19 marijuana-infused products to consumers pursuant to bona fide orders received by a business
20 located on a licensed premises.

21 SECTION 24. Examination of books and premises of licensees. (1) The Oregon Health
22 Authority, after providing 72 hours notice to a person licensed under sections 12 to 24 of this
23 2013 Act, may make an examination of the books kept at the premises for the purpose of
24 determining compliance with sections 1 to 47 of this 2013 Act and rules adopted by the au-
25 thority under sections 1 to 47 of this 2013 Act.

26 (2) The authority may at any time make an examination of the premises of a person li-
27 censed under sections 12 to 24 of this 2013 Act for the purpose of determining compliance
28 with sections 1 to 47 of this 2013 Act and rules adopted under sections 1 to 47 of this 2013
29 Act.

30 SECTION 25. Administration by Oregon Liquor Control Commission. The Oregon Liquor
31 Control Commission shall administer sections 25 to 36 of this 2013 Act and prescribe forms
32 and adopt rules as the commission considers necessary to enforce sections 25 to 36 of this
33 2013 Act.

34 SECTION 26. Tax on marijuana. (1) A tax is imposed upon the privilege of engaging in
35 business as a marijuana producer at the rate of \$35 per ounce on all marijuana produced in
36 this state.

37 (2) The rate of tax imposed by this section applies proportionately to quantities of
38 marijuana that are less than one ounce.

39 (3) The tax imposed by this section shall be measured by the amount of marijuana
40 produced by a marijuana producer.

41 (4) All moneys collected by the Oregon Liquor Control Commission under this section
42 shall be deposited into the suspense account of the commission described in section 35 of this
43 2013 Act for purposes specified in sections 35 and 36 of this 2013 Act.

44 SECTION 27. Payment of taxes; refunds; interest or penalty; appeal. (1) The privilege tax
45 imposed by section 26 of this 2013 Act shall be paid to the Oregon Liquor Control Commis-

1 sion. Taxes to be paid during the periods for which statements are required under section
2 28 of this 2013 Act shall be paid before the time for filing such statements expires. If not so
3 paid, a penalty of 10 percent and interest at the rate of one percent a month or fraction of
4 a month shall be added and collected. The commission may refund a tax payment imposed
5 upon or paid in error by a marijuana producer. The commission may waive the collection or
6 refund the payment of a tax imposed and collected on marijuana determined by the com-
7 mission to be unfit for human consumption or unsalable.

8 (2) The commission may waive any interest or penalty assessed under this section if the
9 commission, in its discretion, determines that the marijuana producer has made a good faith
10 attempt to comply with the requirements of sections 25 to 36 of this 2013 Act.

11 (3) Except in the case of fraud, the commission may not assess any interest or penalty
12 on any tax due under section 26 of this 2013 Act following the expiration of 36 months from
13 the date on which the statement required under section 28 of this 2013 Act was filed.

14 (4) A marijuana producer may appeal a tax imposed under section 26 of this 2013 Act in
15 the manner of a contested case under ORS chapter 183.

16 SECTION 28. Statements by marijuana producers as to quantities produced. On or before
17 the 20th day of each month, every marijuana producer shall file with the Oregon Liquor
18 Control Commission a statement of the quantity of marijuana produced by the marijuana
19 producer during the preceding calendar month.

20 SECTION 29. Estimate by Oregon Liquor Control Commission when statement not filed
21 or false statement filed. If a marijuana producer fails, neglects or refuses to file a statement
22 required by section 28 of this 2013 Act or files a false statement, the Oregon Liquor Control
23 Commission shall estimate the amount of marijuana produced by the marijuana producer and
24 assess the privilege tax imposed under section 26 of this 2013 Act on the basis of the esti-
25 mate. The marijuana producer may not make an appeal under section 27 of this 2013 Act if
26 the marijuana producer fails, neglects or refuses to file a statement or files a false state-
27 ment.

28 SECTION 30. Lien created by tax. The privilege tax imposed under section 26 of this 2013
29 Act constitutes a lien upon, and has the effect of an execution duly levied against, any and
30 all property of the marijuana producer. The lien attaches at the time the marijuana subject
31 to the tax was produced and remains until the tax is paid or the property is sold in payment
32 for the tax. The lien created by this section is paramount to all private liens or
33 encumbrances.

34 SECTION 31. Records to be kept by marijuana producers. Every marijuana producer shall
35 keep a complete and accurate record of all sales of marijuana, and a complete and accurate
36 record of the number of ounces produced and the date of production. The records must be
37 in a form prescribed by the Oregon Liquor Control Commission by rule and must contain any
38 information the commission requires by rule.

39 SECTION 32. Inspection of marijuana producer's records; records to be kept for pre-
40 scribed period. (1) The Oregon Liquor Control Commission may, at any time, examine the
41 records and books of a marijuana producer. The commission may appoint auditors, investi-
42 gators and other employees that the commission considers necessary to enforce its powers
43 and perform its duties under sections 25 to 36 of this 2013 Act.

44 (2) A marijuana producer shall maintain and keep for two years all records required by
45 section 31 of this 2013 Act and all books of accounts related to the production of marijuana.

1 A marijuana producer shall provide copies of those records and books to the commission
2 when requested by the commission.

3 **SECTION 33. Failure to pay tax or maintain records.** (1) A marijuana producer may not:

4 (a) Fail to pay the privilege tax imposed under section 26 of this 2013 Act when it is due;
5 or

6 (b) Falsify a statement required by section 28 of this 2013 Act.

7 (2) A person may not:

8 (a) Refuse to permit the Oregon Liquor Control Commission or a representative of the
9 commission to make an inspection of the books and records authorized by sections 31 and
10 32 of this 2013 Act;

11 (b) Fail to keep books of account required by sections 25 to 36 of this 2013 Act;

12 (c) Fail to preserve the books for two years as required by section 32 of this 2013 Act;

13 or

14 (d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying
15 a record required by sections 25 to 36 of this 2013 Act.

16 **SECTION 34. State has exclusive right to tax marijuana.** No county or city of this state
17 shall impose a fee or tax, including occupation taxes, privilege taxes or inspection fees, in
18 connection with the production, sale, transporting, delivering or handling of marijuana.

19 **SECTION 35. Disposition of moneys; revolving fund.** (1) All moneys collected by the
20 Oregon Liquor Control Commission under sections 25 to 36 of this 2013 Act shall be remitted
21 to the State Treasurer who shall credit the moneys to a suspense account of the commission.
22 Whenever the commission receives moneys in excess of the amount legally due and payable
23 to the commission, the commission shall refund the excess amount by check drawn upon the
24 State Treasurer and charged to the suspense account of the commission. After withholding
25 a sum, not to exceed \$250,000, as the commission considers necessary as a revolving fund for
26 refunds and a working cash balance for paying travel expenses, advances, other miscella-
27 neous bills and extraordinary items that are payable in cash immediately upon presentation,
28 the commission shall direct the State Treasurer to transfer the moneys remaining in the
29 suspense account to the Cannabis Tax Account established under section 36 of this 2013 Act
30 for the purpose of making the distributions required by section 36 of this 2013 Act.

31 (2) All necessary expenditures of the commission incurred in carrying out sections 1 to
32 47 of this 2013 Act, including sums necessary to reimburse the suspense account of the
33 commission, shall be paid from the Cannabis Tax Account.

34 **SECTION 36. Cannabis Tax Account; distribution of available moneys.** (1) There is es-
35 tablished the Cannabis Tax Account, separate and distinct from the General Fund. The ac-
36 count shall consist of moneys transferred to the account under section 35 of this 2013 Act.

37 (2) At the end of each month, the Oregon Liquor Control Commission shall determine the
38 amount of moneys available for distribution in the Cannabis Tax Account and, after with-
39 holding an amount that the commission considers necessary to carry out the duties of the
40 commission under sections 1 to 47 of this 2013 Act, distribute the moneys as follows:

41 (a) Forty percent shall be transferred to the Common School Fund;

42 (b) Twenty percent shall be transferred to the State Police Account established under
43 ORS 181.175;

44 (c) Twenty percent shall be transferred to the Mental Health Alcoholism and Drug Ser-
45 vices Account established under ORS 430.380; and

1 (d) Twenty percent shall be transferred to the General Fund for general governmental
 2 purposes.

3 **SECTION 37. Importing marijuana prohibited.** Marijuana may not be imported into or
 4 exported from this state by any person.

5 **SECTION 38. Marijuana may not be given as prize.** Marijuana may not be given as a
 6 prize, premium or consideration for a lottery, contest, competition or game of chance or skill
 7 of any kind.

8 **SECTION 39. Duty of officers to enforce and to inform district attorney.** The state police,
 9 sheriffs, constables and police officers in this state shall enforce sections 1 to 47 of this 2013
 10 Act and assist the Oregon Health Authority and the Oregon Liquor Control Commission in
 11 detecting violations of sections 1 to 47 of this 2013 Act and apprehending offenders. An officer
 12 having notice, knowledge or reasonable ground of suspicion of a violation of sections 1 to 47
 13 of this 2013 Act shall immediately notify the district attorney of the county in which the vi-
 14 olation occurred and furnish the district attorney with the names and addresses of all wit-
 15 nesses and with other information within the officer's knowledge pertaining to the violation.

16 **SECTION 40. Confiscation of marijuana and property.** Whenever an officer arrests a
 17 person for violating sections 1 to 47 of this 2013 Act, the officer may take into possession
 18 any marijuana and property used to produce, process or sell marijuana in the possession of
 19 the person or on the premises where the violation occurred. If the person arrested is con-
 20 victed and it is found that the marijuana or property was used in violation of the law, the
 21 marijuana and property is forfeited to the state. Forfeited marijuana shall be destroyed and
 22 forfeited property shall be destroyed or sold. Proceeds from sold property shall be deposited
 23 in the Common School Fund.

24 **SECTION 41. Duty to notify of conviction of licensee.** A county court, district attorney
 25 or municipal authority, immediately upon the conviction of a person licensed under sections
 26 12 to 24 of this 2013 Act, shall notify the Oregon Health Authority and the Oregon Liquor
 27 Control Commission of the conviction.

28 **SECTION 42. Property and places as common nuisances.** (1) A room, house, building,
 29 boat, structure or place of any kind where marijuana is sold, manufactured, bartered or
 30 given away in violation of the law, or where persons are permitted to resort for the purpose
 31 of using marijuana in violation of the law, or any place where marijuana is kept for sale,
 32 barter or gift in violation of the law, and all marijuana or property subject to confiscation
 33 under section 40 of this 2013 Act that is kept and used in such a place, is a common nuisance.

34 (2) A person may not maintain or assist in maintaining a common nuisance under this
 35 section or knowingly suffer or permit a common nuisance under this section to exist on
 36 property owned, managed or leased by the person.

37 **SECTION 43. Lien on place used to unlawfully handle marijuana.** If the owner of a
 38 premises knowingly has allowed the premises to be used or occupied for the production, sale
 39 or possession of marijuana contrary to sections 1 to 47 of this 2013 Act, the premises is
 40 subject to a lien and may be sold to pay all fines and costs assessed against the occupants
 41 of the premises who committed the violation or violations. The lien may be enforced by civil
 42 action in any court having jurisdiction by the district attorney of the county where the
 43 premises is located.

44 **SECTION 44. Governor authorized to suspend license.** In case of invasion, disaster,
 45 insurrection, riot or imminent danger of invasion, disaster, insurrection or riot, the Gover-

1 nor may, for the duration of the invasion, disaster, insurrection, riot or imminent danger
 2 of invasion, disaster, insurrection or riot, immediately suspend without notice a license is-
 3 sued under sections 12 to 24 of this 2013 Act in the area subject to or threatened by the in-
 4 vasion, disaster, insurrection or riot.

5 **SECTION 45. Penalties.** (1) Violation of a provision of sections 1 to 47 of this 2013 Act is
 6 a Class B violation.

7 (2) Subject to ORS 153.022, violation of a rule adopted by the Oregon Health Authority
 8 or the Oregon Liquor Control Commission under sections 1 to 47 of this 2013 Act is a Class
 9 B violation.

10 **SECTION 46. Unlawful use of marijuana.** (1) Notwithstanding sections 1 to 47 of this 2013
 11 Act, it is unlawful for any person to engage in the use of marijuana in a public place, as
 12 defined in ORS 161.015, in public view, in a correctional facility as defined in ORS 162.135 or
 13 in a youth correction facility as defined in ORS 162.135.

14 (2) Violation of this section is a specific fine violation. The presumptive fine for a vio-
 15 lation of this section is \$650.

16 **SECTION 47. Severability.** If a provision of sections 1 to 47 of this 2013 Act or its appli-
 17 cation to a person or circumstance is held invalid, the invalidity does not affect other pro-
 18 visions or applications of sections 1 to 47 of this 2013 Act that can be given effect without
 19 the invalid provision or application. To this end, the provisions of sections 1 to 47 of this 2013
 20 Act are severable.

21 **SECTION 48.** ORS 475.005 is amended to read:

22 475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires
 23 otherwise:

24 (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or
 25 medical supervision, which may have a detrimental effect on the individual or society.

26 (2) "Administer" means the direct application of a controlled substance, whether by injection,
 27 inhalation, ingestion or any other means, to the body of a patient or research subject by:

28 (a) A practitioner or an authorized agent thereof; or

29 (b) The patient or research subject at the direction of the practitioner.

30 (3) "Administration" means the Drug Enforcement Administration of the United States Depart-
 31 ment of Justice, or its successor agency.

32 (4) "Agent" means an authorized person who acts on behalf of or at the direction of a man-
 33 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
 34 warehouseman or employee of the carrier or warehouseman.

35 (5) "Board" means the State Board of Pharmacy.

36 (6) "Controlled substance":

37 (a) Means, **except as provided in paragraphs (b) and (c) of this subsection**, a drug or its
 38 immediate precursor classified in Schedules I through V under the federal Controlled Substances
 39 Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this
 40 paragraph does not control and is not controlled by the use of the term "precursor" in ORS 475.752
 41 to 475.980.

42 (b) Does not mean industrial hemp, as defined in ORS 571.300, or industrial hemp commodities
 43 or products.

44 (c) **Does not mean marijuana.**

45 (7) "Counterfeit substance" means a controlled substance or its container or labeling, which,

1 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number
2 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
3 who in fact manufactured, delivered or dispensed the substance.

4 (8) "Deliver" or "delivery" means the actual, constructive or attempted transfer, other than by
5 administering or dispensing, from one person to another of a controlled substance, whether or not
6 there is an agency relationship.

7 (9) "Device" means instruments, apparatus or contrivances, including their components, parts
8 or accessories, intended:

9 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or
10 animals; or

11 (b) To affect the structure of any function of the body of humans or animals.

12 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject
13 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,
14 packaging, labeling or compounding necessary to prepare the substance for that delivery.

15 (11) "Dispenser" means a practitioner who dispenses.

16 (12) "Distributor" means a person who delivers.

17 (13) "Drug" means:

18 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official
19 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
20 to any of them;

21 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
22 disease in humans or animals;

23 (c) Substances (other than food) intended to affect the structure or any function of the body of
24 humans or animals; and

25 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
26 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
27 cessories.

28 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or
29 received through technological apparatuses, including computer terminals or other equipment or
30 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
31 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

32 (15) "Manufacture" means the production, preparation, propagation, compounding, conversion
33 or processing of a controlled substance, either directly or indirectly by extraction from substances
34 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
35 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
36 relabeling of its container, except that this term does not include the preparation or compounding
37 of a controlled substance:

38 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in
39 the course of professional practice; or

40 (b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the
41 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

42 (16) "Marijuana":

43 (a) Except as provided in this subsection, means all parts of the plant Cannabis family
44 Moraceae, whether growing or not; the resin extracted from any part of the plant; and every com-
45 pound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

1 (b) Does not mean the mature stalks of the plant, fiber produced from the stalks, oil or cake
 2 made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
 3 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the
 4 sterilized seed of the plant which is incapable of germination.

5 (c) Does not mean industrial hemp, as defined in ORS 571.300, or industrial hemp commodities
 6 or products.

7 (17) "Person" includes a government subdivision or agency, business trust, estate, trust or any
 8 other legal entity.

9 (18) "Practitioner" means physician, dentist, veterinarian, scientific investigator, certified nurse
 10 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
 11 to dispense, conduct research with respect to or to administer a controlled substance in the course
 12 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

13 (19) "Prescription" means a written, oral or electronically transmitted direction, given by a
 14 practitioner for the preparation and use of a drug. When the context requires, "prescription" also
 15 means the drug prepared under such written, oral or electronically transmitted direction. Any label
 16 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
 17 nently display a warning that the removal thereof is prohibited by law.

18 (20) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a
 19 controlled substance.

20 (21) "Research" means an activity conducted by the person registered with the federal Drug
 21 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug
 22 Administration.

23 (22) "Ultimate user" means a person who lawfully possesses a controlled substance for the use
 24 of the person or for the use of a member of the household of the person or for administering to an
 25 animal owned by the person or by a member of the household of the person.

26 **SECTION 49.** ORS 90.396 is amended to read:

27 90.396. (1) Except as provided in subsection (2) of this section, after at least 24 hours' written
 28 notice specifying the acts and omissions constituting the cause and specifying the date and time of
 29 the termination, the landlord may terminate the rental agreement and take possession as provided
 30 in ORS 105.105 to 105.168, if:

31 (a) The tenant, someone in the tenant's control or the tenant's pet seriously threatens to inflict
 32 substantial personal injury, or inflicts any substantial personal injury, upon a person on the prem-
 33 ises other than the tenant;

34 (b) The tenant or someone in the tenant's control recklessly endangers a person on the premises
 35 other than the tenant by creating a serious risk of substantial personal injury;

36 (c) The tenant, someone in the tenant's control or the tenant's pet inflicts any substantial per-
 37 sonal injury upon a neighbor living in the immediate vicinity of the premises;

38 (d) The tenant or someone in the tenant's control intentionally inflicts any substantial damage
 39 to the premises or the tenant's pet inflicts substantial damage to the premises on more than one
 40 occasion;

41 (e)(A) The tenant intentionally provided substantial false information on the application for the
 42 tenancy within the past year;

43 (B) The false information was with regard to a criminal conviction of the tenant that would have
 44 been material to the landlord's acceptance of the application; and

45 (C) The landlord terminates the rental agreement within 30 days after discovering the falsity

1 of the information; or

2 (f) The tenant, someone in the tenant’s control or the tenant’s pet commits any act that is out-
 3 rageous in the extreme, on the premises or in the immediate vicinity of the premises. For purposes
 4 of this paragraph, an act is outrageous in the extreme if the act is not described in paragraphs (a)
 5 to (e) of this subsection, but is similar in degree and is one that a reasonable person in that com-
 6 munity would consider to be so offensive as to warrant termination of the tenancy within 24 hours,
 7 considering the seriousness of the act or the risk to others. An act that is outrageous in the extreme
 8 is more extreme or serious than an act that warrants a 30-day termination under ORS 90.392. Acts
 9 that are “outrageous in the extreme” include, but are not limited to, the following acts by a person:

10 (A) Prostitution, patronizing a prostitute or promoting prostitution, as described in ORS 167.007,
 11 167.008 and 167.012;

12 (B) Manufacture, delivery or possession of a controlled substance, as described in ORS 475.005,
 13 but not including[.]

14 [(i) *The medical use of marijuana in compliance with ORS 475.300 to 475.346;*]

15 [(ii) *Possession of, or delivery for no consideration of, less than one avoirdupois ounce of*
 16 *marijuana as described in ORS 475.860 (3) or 475.864 (3); or]*

17 [(iii)] possession of prescription drugs;

18 (C) Intimidation, as described in ORS 166.155 and 166.165; or

19 (D) Burglary as described in ORS 164.215 and 164.225.

20 (2) If the cause for a termination notice given pursuant to subsection (1) of this section is based
 21 upon the acts of the tenant’s pet, the tenant may cure the cause and avoid termination of the
 22 tenancy by removing the pet from the premises prior to the end of the notice period. The notice
 23 must describe the right of the tenant to cure the cause. If the tenant returns the pet to the premises
 24 at any time after having cured the violation, the landlord, after at least 24 hours’ written notice
 25 specifying the subsequent presence of the offending pet, may terminate the rental agreement and
 26 take possession as provided in ORS 105.105 to 105.168. The tenant does not have a right to cure this
 27 subsequent violation.

28 (3) For purposes of subsection (1) of this section, someone is in the tenant’s control if that per-
 29 son enters or remains on the premises with the tenant’s permission or consent after the tenant
 30 reasonably knows or should know of that person’s act or likelihood to commit any act of the type
 31 described in subsection (1) of this section.

32 (4) An act can be proven to be outrageous in the extreme even if the act is one that does not
 33 violate a criminal statute. Notwithstanding the references to criminal statutes in subsection (1)(f)
 34 of this section, the landlord’s burden of proof in an action for possession under subsection (1) of this
 35 section is the civil standard of proof by a preponderance of the evidence.

36 (5) If a good faith effort by a landlord to terminate the tenancy under subsection (1)(f) of this
 37 section and to recover possession of the rental unit under ORS 105.105 to 105.168 fails by decision
 38 of the court, the landlord may not be found in violation of any state statute or local ordinance re-
 39 quiring the landlord to remove that tenant upon threat of fine, abatement or forfeiture as long as
 40 the landlord continues to make a good faith effort to terminate the tenancy.

41 **SECTION 50.** ORS 453.858 is amended to read:

42 453.858. As used in ORS 453.855 to 453.912:

43 [(1) *“Controlled substance” does not include marijuana.*]

44 [(2)] (1) “Illegal drug manufacturing site” means any property on which there is a reasonably
 45 clear possibility of contamination with chemicals associated with the manufacturing of controlled

1 substances **as defined in ORS 475.005** and:

2 (a) Where activity involving the unauthorized manufacture of a controlled substance listed on
3 Schedules I and II or any precursor chemical for such substances occurs; or

4 (b) Wherein are kept, stored or located any of the devices, equipment, things or substances used
5 for the unauthorized manufacture of a controlled substance listed on Schedules I and II.

6 [(3)] **(2)** “Property” means any:

7 (a) Real property, improvements on real property or portions of the improvements;

8 (b) Boat, trailer, motor vehicle or manufactured dwelling; or

9 (c) Contents of the items listed in paragraph (a) or (b) of this subsection.

10 **SECTION 51.** ORS 475.525 is amended to read:

11 475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver
12 or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to
13 unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
14 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or other-
15 wise introduce into the human body a controlled substance as defined by ORS 475.005.

16 (2) For the purposes of this section, “drug paraphernalia” means all equipment, products and
17 materials of any kind which are marketed for use or designed for use in planting, propagating, cul-
18 tivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, pre-
19 paring, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting,
20 ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation
21 of ORS 475.752 to 475.980. Drug paraphernalia includes, but is not limited to:

22 (a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating,
23 growing or harvesting of any species of plant which is a controlled substance or from which a con-
24 trolled substance can be derived;

25 (b) Kits marketed for use or designed for use in manufacturing, compounding, converting,
26 producing, processing or preparing controlled substances;

27 (c) Isomerization devices marketed for use or designed for use in increasing the potency of any
28 species of plant which is a controlled substance;

29 (d) Testing equipment marketed for use or designed for use in identifying or in analyzing the
30 strength, effectiveness or purity of controlled substances;

31 (e) Scales and balances marketed for use or designed for use in weighing or measuring con-
32 trolled substances;

33 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and
34 lactose, marketed for use or designed for use in cutting controlled substances;

35 [(g) *Separation gins and sifters marketed for use or designed for use in removing twigs and seeds*
36 *from, or in otherwise cleaning or refining marijuana;*]

37 [(h)] **(g)** Containers and other objects marketed for use or designed for use in storing or con-
38 cealing controlled substances; and

39 [(i)] **(h)** Objects marketed for use or designed specifically for use in ingesting, inhaling or oth-
40 erwise introducing [*marijuana,*] cocaine[, *hashish or hashish oil*] into the human body[, *such as:*].

41 [(A) *Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, perma-*
42 *nent screens or hashish heads;*]

43 [(B) *Water pipes;*]

44 [(C) *Carburetion tubes and devices;*]

45 [(D) *Smoking and carburetion masks;*]

1 *[(E) Roach clips, meaning objects used to hold burning material that has become too small or too*
 2 *short to be held in the hand, such as a marijuana cigarette;]*

3 *[(F) Miniature cocaine spoons and cocaine vials;]*

4 *[(G) Chamber pipes;]*

5 *[(H) Carburetor pipes;]*

6 *[(I) Electric pipes;]*

7 *[(J) Air-driven pipes;]*

8 *[(K) Chillums;]*

9 *[(L) Bongs;]*

10 *[(M) Ice pipes or chillers; and]*

11 *[(N) Lighting equipment specifically designed for the growing of controlled substances.]*

12 (3) Drug paraphernalia does not include hypodermic syringes or needles.

13 (4) In determining whether an object is drug paraphernalia, a trier of fact should consider, in
 14 addition to all other relevant factors, the following:

15 (a) Instructions, oral or written, provided with the object concerning its use;

16 (b) Descriptive materials accompanying the object which explain or depict its use;

17 (c) National and local advertising concerning its use;

18 (d) The manner in which the object is displayed for sale;

19 (e) The existence and scope of legitimate uses for the object in the community; and

20 (f) Any expert testimony which may be introduced concerning its use.

21 (5) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the pro-
 22 visions of ORS 475.125 or to persons specified as exempt from registration under the provisions of
 23 that statute.

24 **SECTION 52.** ORS 475.856 is amended to read:

25 475.856. (1) It is unlawful for any person **under 21 years of age** to manufacture marijuana.

26 (2) Unlawful manufacture of marijuana is a Class A felony.

27 **SECTION 53.** ORS 475.860 is amended to read:

28 475.860. (1) It is unlawful:

29 (a) For any person **under 21 years of age** to deliver marijuana[.]; **or**

30 (b) **For any person to deliver marijuana to a person under 21 years of age.**

31 (2) Unlawful delivery of marijuana is a:

32 (a) Class B felony if the delivery is for consideration.

33 (b) Class C felony if the delivery is for no consideration.

34 (3) Notwithstanding subsection (2) of this section, unlawful delivery of marijuana is a:

35 (a) Class A misdemeanor, if the delivery is for no consideration and consists of less than one
 36 avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

37 (b) Violation, if the delivery is for no consideration and consists of less than five grams of the
 38 dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this par-
 39 agraph is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

40 (4) Notwithstanding subsections (2) and (3) of this section, unlawful delivery of marijuana is a:

41 (a) Class A felony, if the delivery is to a person under 18 years of age and the defendant is at
 42 least 18 years of age and is at least three years older than the person to whom the marijuana is
 43 delivered; or

44 (b) Class C misdemeanor, if the delivery:

45 (A) Is for no consideration;

1 (B) Consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis
2 family Moraceae;

3 (C) Takes place in a public place, as defined in ORS 161.015, that is within 1,000 feet of the real
4 property comprising a public or private elementary, secondary or career school attended primarily
5 by minors; and

6 (D) Is to a person who is 18 years of age or older **but under 21 years of age.**

7 **SECTION 54.** ORS 475.864 is amended to read:

8 475.864. (1) It is unlawful for any person **under 21 years of age** knowingly or intentionally to
9 possess marijuana.

10 (2) Unlawful possession of marijuana is a Class B felony.

11 (3) Notwithstanding subsection (2) of this section, unlawful possession of marijuana is a violation
12 if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers
13 of the plant Cannabis family Moraceae. A violation under this subsection is a specific fine violation.
14 The presumptive fine for a violation under this subsection is \$650.

15 (4) Notwithstanding subsections (2) and (3) of this section, unlawful possession of marijuana is
16 a Class C misdemeanor if the amount possessed is less than one avoirdupois ounce of the dried
17 leaves, stems and flowers of the plant Cannabis family Moraceae and the possession takes place in
18 a public place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising
19 a public or private elementary, secondary or career school attended primarily by minors.

20 **SECTION 55.** ORS 475.900 is amended to read:

21 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified
22 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

23 (a) The violation constitutes delivery or manufacture of a controlled substance and involves
24 substantial quantities of a controlled substance. For purposes of this paragraph, the following
25 amounts constitute substantial quantities of the following controlled substances:

26 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

27 (B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

28 (C) Ten grams or more of a mixture or substance containing a detectable amount of metham-
29 phetamine, its salts, isomers or salts of its isomers;

30 [(D) One hundred grams or more of a mixture or substance containing a detectable amount of
31 hashish;]

32 [(E) One hundred and fifty grams or more of a mixture or substance containing a detectable
33 amount of marijuana;]

34 [(F)] (D) Two hundred or more user units of a mixture or substance containing a detectable
35 amount of lysergic acid diethylamide;

36 [(G)] (E) Sixty grams or more of a mixture or substance containing a detectable amount of
37 psilocybin or psilocin; or

38 [(H)] (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance
39 containing a detectable amount of:

40 (i) 3,4-methylenedioxyamphetamine;

41 (ii) 3,4-methylenedioxymethamphetamine; or

42 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

43 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and
44 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or
45 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at

1 least three of the following factors:

2 (A) The delivery was of heroin, cocaine, hashish, marijuana, methamphetamine, lysergic acid
3 diethylamide, psilocybin or psilocin and was for consideration;

4 (B) The offender was in possession of \$300 or more in cash;

5 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS
6 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous
7 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly
8 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a
9 controlled substance offense;

10 (D) The offender was in possession of materials being used for the packaging of controlled sub-
11 stances such as scales, wrapping or foil, other than the material being used to contain the substance
12 that is the subject of the offense;

13 (E) The offender was in possession of drug transaction records or customer lists;

14 (F) The offender was in possession of stolen property;

15 (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled
16 substance offense;

17 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor
18 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

19 (I) The offender was using public lands for the manufacture of controlled substances;

20 (J) The offender had constructed fortifications or had taken security measures with the potential
21 of injuring persons; or

22 (K) The offender was in possession of controlled substances in an amount greater than:

23 (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

24 (ii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

25 (iii) Eight grams or more of a mixture or substance containing a detectable amount of metham-
26 phetamine;

27 *[(iv) Eight grams or more of a mixture or substance containing a detectable amount of hashish;]*

28 *[(v) One hundred ten grams or more of a mixture or substance containing a detectable amount of*
29 *marijuana;]*

30 *[(vi)]* (iv) Twenty or more user units of a mixture or substance containing a detectable amount
31 of lysergic acid diethylamide;

32 *[(vii)]* (v) Ten grams or more of a mixture or substance containing a detectable amount of
33 psilocybin or psilocin; or

34 *[(viii)]* (vi) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance
35 containing a detectable amount of:

36 (I) 3,4-methylenedioxyamphetamine;

37 (II) 3,4-methylenedioxymethamphetamine; or

38 (III) 3,4-methylenedioxy-N-ethylamphetamine.

39 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.858, 475.862, 475.868,
40 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

41 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists
42 of:

43 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-
44 facturing methamphetamine; or

45 (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of

1 manufacturing methamphetamine.

2 (e) The violation constitutes a violation of ORS 475.860 (4)(a) or 475.906 (1) or (2).

3 (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of
4 the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

5 (a) The violation constitutes delivery of heroin, cocaine, methamphetamine or
6 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
7 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

8 (b) The violation constitutes possession of:

9 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

10 (B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

11 (C) Ten grams or more of a mixture or substance containing a detectable amount of metham-
12 phetamine;

13 [(D) *One hundred grams or more of a mixture or substance containing a detectable amount of*
14 *hashish;*]

15 [(E) *One hundred fifty grams or more of a mixture or substance containing a detectable amount*
16 *of marijuana;*]

17 [(F)] (D) Two hundred or more user units of a mixture or substance containing a detectable
18 amount of lysergic acid diethylamide;

19 [(G)] (E) Sixty grams or more of a mixture or substance containing a detectable amount of
20 psilocybin or psilocin; or

21 [(H)] (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance
22 containing a detectable amount of:

23 (i) 3,4-methylenedioxyamphetamine;

24 (ii) 3,4-methylenedioxymethamphetamine; or

25 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

26 (3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or
27 (2) of this section shall be classified as:

28 (a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-
29 sion if the violation involves delivery or manufacture of a controlled substance; or

30 (b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-
31 sion if the violation involves possession of a controlled substance.

32 (4) In order to prove a commercial drug offense, the state shall plead in the accusatory instru-
33 ment sufficient factors of a commercial drug offense under subsections (1) and (2) of this section.
34 The state has the burden of proving each factor beyond a reasonable doubt.

35 (5) As used in this section, "mixture or substance" means any mixture or substance, whether
36 or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

37 **SECTION 56.** ORS 475.908 is amended to read:

38 475.908. (1) A person commits the crime of causing another person to ingest a controlled sub-
39 stance if the person knowingly or intentionally causes the other person to ingest, other than by
40 administering or dispensing, a controlled substance or a controlled substance analog without con-
41 sent of the other person. A person who violates this subsection is guilty of a Class B felony.

42 (2) Notwithstanding subsection (1) of this section, causing another person to ingest a controlled
43 substance is a Class A felony if the person, with the intent of committing or facilitating a crime of
44 violence against the other person, knowingly or intentionally causes the other person to ingest a
45 controlled substance or a controlled substance analog without consent of the other person.

(3) For the purposes of this section:

(a)(A) Except as provided in subparagraph (B) of this paragraph, “controlled substance analog” means a substance that:

(i) Has a chemical structure that is substantially similar to the chemical structure of a controlled substance in Schedule I or II.

(ii) Has a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(B) “Controlled substance analog” does not include:

(i) A controlled substance;

(ii) Any substance that has an approved drug application;

(iii) Any substance exempted under 21 U.S.C. 355 if the ingestion is within the scope of investigation authorized under 21 U.S.C. 355; or

(iv) Distilled spirits, wine or malt beverages.

(b) “Crime of violence” means:

(A) Rape in the first degree, as defined in ORS 163.375;

(B) Sodomy in the first degree, as defined in ORS 163.405;

(C) Unlawful sexual penetration in the first degree, as defined in ORS 163.411;

(D) Sexual abuse in the first degree, as defined in ORS 163.427;

(E) Kidnapping in the first degree, as defined in ORS 163.235;

(F) Kidnapping in the second degree, as defined in ORS 163.225;

(G) Assault in the first degree, as defined in ORS 163.185; or

(H) Assault in the second degree, as defined in ORS 163.175.

(c) “Ingest” means to consume or otherwise deliver a controlled substance into the body of a person[, *except that “ingest” does not include inhalation of marijuana smoke*].

SECTION 57. ORS 475.910 is amended to read:

475.910. [(1)] Except as authorized by ORS 475.005 to 475.285 or 475.752 to 475.980, it is unlawful for any person to intentionally apply a controlled substance to the body of another person by injection, inhalation, ingestion or any other means if the other person is under 18 years of age. A person who violates this section with respect to:

[(a)] (1) A controlled substance in Schedule I or II, is guilty of a Class A felony classified as crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

[(b)] (2) A controlled substance in Schedule III, is guilty of a Class B felony classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

[(c)] (3) A controlled substance in Schedule IV, is guilty of a Class C felony.

[(d)] (4) A controlled substance in Schedule V, is guilty of a Class A misdemeanor.

[(2) *It is a defense to a charge of violating subsection (1) of this section by applying marijuana that the person applying the marijuana was less than three years older than the victim at the time of the alleged offense.*]

SECTION 58. ORS 475.933 is amended to read:

475.933. (1) When a court sentences a person convicted of a crime listed in subsection (2) of this section, the court may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of this section.

1 (2) The crimes to which subsection (1) of this section applies are:

2 (a) Manufacture or delivery of a controlled substance[, *other than marijuana*,] under ORS 475.752
3 (1);

4 (b) Creation or delivery of a counterfeit substance[, *other than marijuana*,] under ORS 475.752
5 (2);

6 (c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;

7 (d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine under ORS 475.866, 475.868,
8 475.870 or 475.872;

9 (e) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882;

10 (f) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or 475.892;

11 (g) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS
12 475.904;

13 (h) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906; and

14 (i) Possession of a precursor substance with intent to manufacture a controlled substance under
15 ORS 475.967.

16 (3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
17 occurred upon the pronouncement in open court of sentence. However, when sentences are imposed
18 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
19 victions is considered to have occurred prior to any of the other convictions arising out of the same
20 conduct or criminal episode.

21 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
22 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
23 court of the suspended imposition of a sentence.

24 (4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

25 (5) As used in this section, "previous conviction" means:

26 (a) Convictions occurring before, on or after July 1, 2009; and

27 (b) Convictions entered in any other state or federal court for comparable offenses.

28 **SECTION 59.** ORS 571.315 is amended to read:

29 571.315. (1) In addition to any other liability or penalty provided by law, the State Department
30 of Agriculture may revoke or refuse to issue or renew an industrial hemp license or an agricultural
31 hemp seed production permit and may impose a civil penalty for violation of:

32 (a) A license or permit requirement;

33 (b) License or permit terms or conditions;

34 (c) Department rules relating to growing or handling industrial hemp; or

35 (d) A final order of the department that is specifically directed to the grower's or handler's in-
36 dustrial hemp operations or activities.

37 (2) The department may not impose a civil penalty under this section that exceeds \$2,500. The
38 department shall impose civil penalties under this section in the manner provided by ORS 183.745.

39 (3) The department may revoke or refuse to issue or renew an industrial hemp license or an
40 agricultural hemp seed production permit for violation of any rule of the department that pertains
41 to agricultural operations or activities other than industrial hemp growing or handling.

42 (4) A revocation of, or a refusal to issue or renew, an industrial hemp license or an agricultural
43 hemp seed production permit is subject to ORS chapter 183.

44 **(5) The department may not revoke or refuse to issue or renew an industrial hemp li-**
45 **cence or an agricultural hemp seed production permit on the basis that hemp production or**

1 possession, or commerce in industrial hemp commodities or products, is prohibited by federal
 2 law.

3 **SECTION 60.** ORS 475.059 is repealed.

4 **SECTION 61.** The amendments to ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860,
 5 475.864, 475.900, 475.908, 475.910 and 475.933 by sections 48 to 58 of this 2013 Act and the repeal
 6 of ORS 475.059 by section 60 of this 2013 Act apply to conduct occurring on and after the
 7 operative date specified in section 62 of this 2013 Act.

8 **SECTION 62.** (1) Sections 1 to 47 of this 2013 Act, the amendments to ORS 90.396, 453.858,
 9 475.005, 475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910, 475.933 and 571.315 by
 10 sections 48 to 59 of this 2013 Act and the repeal of ORS 475.059 by section 60 of this 2013 Act
 11 become operative on July 1, 2014.

12 (2) The Oregon Health Authority and the Oregon Liquor Control Commission may take
 13 any action before the operative date specified in subsection (1) of this section that is neces-
 14 sary to enable the authority and the commission to exercise, on and after the operative date
 15 specified in subsection (1) of this section, all the duties, functions and powers conferred on
 16 the authority and the commission by sections 1 to 47 of this 2013 Act, the amendments to
 17 ORS 90.396, 453.858, 475.005, 475.525, 475.856, 475.860, 475.864, 475.900, 475.908, 475.910, 475.933
 18 and 571.315 by sections 48 to 59 of this 2013 Act and the repeal of ORS 475.059 by section 60
 19 of this 2013 Act.

20 **SECTION 63.** The section captions used in this 2013 Act are provided only for the con-
 21 venience of the reader and do not become part of the statutory law of this state or express
 22 any legislative intent in the enactment of this 2013 Act.

23 **SECTION 64.** This 2013 Act being necessary for the immediate preservation of the public
 24 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
 25 on its passage.

26 _____